

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RICHARD DEVINE,
Plaintiff,

v.

CIVIL ACTION NO. 5:06CV136

MICHAEL J. ASTRUE,¹
COMMISSIONER OF SOCIAL SECURITY,
Defendant.

ORDER/OPINION

On October 31, 2006, the plaintiff, Richard Devine, by Scott A. Curnutte, his attorney, filed a Complaint in this matter. On January 23, 2007, Defendant filed his Answer to the Complaint, along with a copy of the Transcript of the Administrative Proceedings in this matter.

Plaintiff is directed to Local Rule of Civil Procedure 83.12, which provides:

Within thirty days after the defendant has filed an answer and a complete copy of the administrative record, the plaintiff shall file a brief in support of his or her claim(s) for relief. The plaintiff shall serve copies of his or her brief upon the United States Attorney's Office.

Plaintiff's Motion for Summary Judgment was therefore due on or before February 23, 2007. A review of the docket reveals Plaintiff had not filed his Motion for Summary Judgment and brief in support thereof as of April 3, 2007.

It is therefore **ORDERED** that:

On or before April 20, 2007, Plaintiff shall, in writing, show good cause, if any he can, why he failed to timely file his Motion for Summary Judgment and brief in support thereof in accord with

¹ On February 12, 2007, Michael J. Astrue became the Commissioner of Social Security. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue should be substituted, therefore, for former Commissioner Jo Anne B. Barnhart (or Acting Commissioner Linda L. McMahon [if the caption was changed previously]) as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. §405(g).

the Local Rule. Failure to do so will result in the undersigned recommending to the District Judge that this case be dismissed for failure to prosecute the same.

The Clerk is directed to send a copy of this Order to counsel of record.

DATED: April 3, 2007.

/s *John S. Kaull*

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE